

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,986	12/20/2000	David A. Eatough	10559/376001/P10182	8003
20985	7590	09/02/2004	EXAMINER	
FISH & RICHARDSON, PC			YIGDALL, MICHAEL J	
12390 EL CAMINO REAL			ART UNIT	
SAN DIEGO, CA 92130-2081			PAPER NUMBER	

2122

DATE MAILED: 09/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/741,986	Applicant(s) EATOUGH ET AL.	
	Examiner Michael J. Yigdall	Art Unit 2122	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is in reply to Applicant's response and amendment filed June 3, 2004.
Claims 1-28 are pending.

Response to Arguments

2. Applicant's arguments have been fully considered but they are not persuasive.

Applicant contends that the art of record fails to teach or suggest, either alone or in combination, a vendor package template and a package importer to create a package based on the vendor package template, or importing vendor-specific software using a vendor package template to create an X-package having a script (page 8, paragraph 3).

However, Foster discloses constructing or creating software packages for distribution (see column 3, lines 47-52). Each package includes a control file or script to manage the installation of the package (see column 7, lines 35-45). Likewise, Davis discloses a configuration file, i.e. a template, for an application or package provided by a third party or vendor (see column 3, lines 44-51). Davis further discloses importing the vendor package template to determine the components and parameters associated with the package (see column 4, lines 1-9), and creating a list of installation tasks, i.e. a script, based on the template (see column 4, lines 20-24). Therefore, in combination, Foster and Davis suggest importing a vendor package template and creating a package with a script based on the template.

Applicant further contends that the cited portions of Davis describe an actual installation of a software package, and not an importation of a software package that occurs before installation (page 8, paragraph 3).

However, as illustrated in FIG. 3, Davis discloses opening the configuration file (step 71) and importing the components and parameters associated with the package (steps 75 and 76) prior to the actual installation of the package (step 94).

Applicant further contends that the configuration file of Davis is a file containing a list of components for a third party application, and that there is nothing in Davis that either teaches or suggests a vendor package template or script as claimed (page 9, paragraph 1).

However, the configuration file of Davis includes additional installation parameters (see column 4, lines 25-37 and 42-50). Davis discloses importing the configuration file to create a script, in the form of a task list, which is used to install the package (see column 5, lines 28-32). Moreover, the configuration file of Davis is associated with an application or package from a third party or vendor (see column 3, lines 44-51), and thus corresponds to a vendor package template. Likewise, as presented above, Foster discloses creating software packages having scripts. Foster further discloses installing, upgrading and removing such packages (see column 4, lines 19-26). Therefore, in combination, Foster and Davis suggest a vendor package template that provides a script to install, upgrade and remove at least one software package.

Applicant further contends that the information disclosed by Foster that is included in the software packages is not the same as the name or identity of the importing user as recited in the claims (page 9, paragraph 2).

However, Foster discloses including the name of the person responsible for maintaining or creating the software package (see column 8, lines 31-33). Furthermore, the importing disclosed by Davis, as presented above, is controlled by input from a user, i.e. an importing user

Art Unit: 2122

(see column 3, lines 37-43). Therefore, in combination, Foster and Davis suggest including the name of the importing user in the package.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,675,382 to Foster (art of record; herein "Foster") in view of U.S. Pat. No. 6,279,154 to Davis (art of record; herein "Davis").

With respect to claim 1 (original), Foster discloses a software management system (see the title and abstract), comprising a package agent to receive, deploy and execute an X-package at a target computer (see FIG. 4 and column 9, lines 19-46, which shows the installation, i.e. the deployment and execution, of a software package; see also column 12, lines 25-35, which shows that the software package may be received from a remote server).

Although Foster discloses creating and distributing a software package (see column 3, lines 47-52), as well as the means to install, upgrade and remove a package (see column 4, lines 19-26), Foster does not expressly disclose a vendor package template and a package importer to create a package based on the vendor package template.

However, Davis discloses a third-party component configuration file, i.e. a vendor package template (see column 3, lines 44-51), and the means to import the configuration file or template and create a corresponding list of installation tasks (see column 4, lines 1-9 and 20-24), in a system that enables users to install and configure third-party applications using a single, common interface (see column 1, lines 43-57).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the package importing features taught by Davis with the system of Foster, in order to provide a common interface for managing software packages from a plurality of third parties or vendors.

With respect to claim 2 (currently amended), Foster in view of Davis further discloses the limitation wherein said package importer receives an importing user identity for recording (see column 8, lines 31-33, which shows receiving the identity of the package creator, i.e. the importing user).

With respect to claim 3 (original), although Foster discloses vendor-supplied software packaging systems (see column 2, lines 8-13), Foster does not expressly disclose the limitation wherein said at least one software package includes packages from different vendors.

However, Davis discloses an installation system that includes packages from a plurality of third parties or vendors and enables users to manage them using a single, common interface (see column 1, lines 43-57).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include packages from different vendors in the Foster system, in order to provide a

common interface for managing software packages from the plurality of sources as taught by Davis.

With respect to claim 4 (original), Foster in view of Davis further discloses the limitation wherein said X-package includes a substantially uniform set of attributes that allows said at least one software package to be managed in a single user interface (see column 7, lines 35-45, which shows the control file associated with a package having a uniform set of attributes, and lines 55-63, which shows a list of such attributes).

With respect to claim 5 (original), Foster in view of Davis further discloses the limitation wherein said package importer tags said X-package with a signature (see column 11, lines 61-64, which shows a digital signature associated with a package).

With respect to claim 6 (original), Foster in view of Davis further discloses an authentication element to provide verification of the X-package by validating the signature in the X-package with a list of certificates trusted by the target computer (see column 12, lines 1-5, which shows verifying the authenticity of the package by checking the signature).

With respect to claim 7 (original), Foster in view of Davis further discloses a script extractor to extract an X-package script (see column 7, lines 14-17, which shows decompressing or extracting the contents of a package, and lines 35-45, which shows the control file or script associated with the package).

With respect to claim 8 (original), although Foster discloses vendor-supplied software packaging systems (see column 2, lines 8-13), Foster does not expressly disclose the limitation

wherein said X-package script includes logic for interacting with a vendor-specific package agent.

However, Davis discloses interacting with vendor-specific packages (see column 3, lines 44-51, and column 4, lines 1-9), in a system that enables users to install and configure third-party applications using a single, common interface (see column 1, lines 43-57).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the vendor-specific features taught by Davis with the system of Foster, in order to provide a common interface for managing software packages from a plurality of third parties or vendors.

With respect to claim 9 (original), Foster in view of Davis further discloses the limitation wherein said X-package script includes logic for interacting with multiple operating systems (see column 12, lines 56-67, which shows having platform-independent logic for use with multiple operating systems).

With respect to claim 10 (original), Foster in view of Davis further discloses the limitation wherein said X-package further includes a name of a user who imported said at least one software package (see column 8, lines 31-33, which shows including the name of a user who created the package, i.e. an importing user).

With respect to claim 11 (original), Foster in view of Davis further discloses the limitation wherein said X-package further includes a hash of package files included in said at least one software package (see column 11, line 61 to column 12, line 10, which shows using an

encryption mechanism to protect against and identify any tampering of the files in a package, i.e. using a hash).

With respect to claim 12 (original), Foster in view of Davis further discloses the limitation wherein said package agent checks relevant operating system of said at least one software package (see column 10, lines 53-61, which shows checking the operating system to determine whether the software package is compatible).

With respect to claim 13 (original), Foster in view of Davis further discloses the limitation wherein said package agent downloads any needed files (see column 12, lines 44-46, which shows downloading any needed files).

With respect to claim 14 (original), Foster in view of Davis further discloses the limitation wherein said package agent reports status (see column 10, lines 57-61, which shows reporting the status of the package).

With respect to claim 15 (original), Foster discloses a software management system (see the title and abstract), comprising:

(a) a distribution management server (see column 12, lines 13-24, which shows a remote distribution source or server); and

(b) a plurality of target computers (see column 12, lines 13-14, which shows a local client computer, i.e. a target computer; see also FIG. 1, which shows that the target computer exists in a network environment, for example as one of a plurality of target computers), each target computer including:

(i) an authentication element to provide verification of the X-package by validating the signature in the X-package with a list of certificates trusted by the target computer (see column 12, lines 1-5, which shows verifying the authenticity of the package by checking the signature);

(ii) a script extractor to extract an X-package script (see column 7, lines 14-17, which shows decompressing or extracting the contents of a package, and lines 35-45, which shows the control file or script associated with the package);

(iii) a package agent to receive, deploy and execute said X-package at the target computer (see FIG. 4 and column 9, lines 19-46, which shows the installation, i.e. the deployment and execution, of a software package; see also column 12, lines 25-35, which shows that the software package may be received from a remote server).

Although Foster discloses creating and distributing a software package (see column 3, lines 47-52), as well as the means to install, upgrade and remove a package (see column 4, lines 19-26), Foster does not expressly disclose a vendor package template and a package importer to create a package based on the vendor package template.

However, Davis discloses a third-party component configuration file (i.e. a vendor package template) and the means to import the configuration file or template and create a corresponding list of installation tasks (see column 3, lines 44-51, and column 4, lines 1-9 and 20-24), in a system that enables users to install and configure third-party applications using a single, common interface (see column 1, lines 43-57).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the package importing features taught by Davis with the system of Foster,

in order to provide a common interface for managing software packages from a plurality of third parties or vendors.

Foster in view of Davis further discloses the limitation wherein said package importer tags said X-package with a signature (see column 11, lines 61-64, which shows a digital signature associated with a package).

With respect to claim 16 (original), although Foster discloses vendor-supplied software packaging systems (see column 2, lines 8-13), Foster does not expressly disclose the limitation wherein said at least one software package includes packages from different vendors.

However, Davis discloses an installation system that includes packages from a plurality of third parties or vendors and enables users to manage them using a single, common interface (see column 1, lines 43-57).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include packages from different vendors in the Foster system, in order to provide a common interface for managing software packages from the plurality of sources as taught by Davis.

With respect to claim 17 (original), Foster in view of Davis further discloses the limitation wherein said X-package includes a substantially uniform set of attributes that allows said at least one software package to be managed in a single user interface (see column 7, lines 35-45, which shows the control file associated with a package having a uniform set of attributes, and lines 55-63, which shows a list of such attributes).

With respect to claim 18 (original), Foster discloses a method for distributing vendor-specific software to target computers (see the title and abstract), comprising transferring an X-package to target computers (see column 12, lines 25-35, which shows transferring a software package from a remote source to a target computer) and processing an X-package script (see column 9, lines 19-46, which shows processing a control file or script).

Although Foster discloses creating and distributing a software package (see column 3, lines 47-52) having a control file or script (see column 7, lines 35-45), Foster does not expressly disclose importing the vendor-specific software using a vendor package template to create an X-package having a script.

However, Davis discloses a third-party component configuration file (i.e. a vendor package template) and importing the configuration file or template to create a corresponding list of installation tasks (see column 3, lines 44-51, and column 4, lines 1-9 and 20-24), in a system that enables users to install and configure third-party applications using a single, common interface (see column 1, lines 43-57).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the package importing features taught by Davis with the system of Foster, in order to provide a common interface for managing software packages from a plurality of third parties or vendors.

With respect to claim 19 (original), Foster in view of Davis further discloses authenticating the X-package by validating a signature on said X-package (see column 12, lines 1-5, which shows verifying the authenticity of the package by checking the signature).

With respect to claim 20 (original), Foster in view of Davis further discloses extracting the script from said X-package for processing (see column 7, lines 14-17, which shows decompressing or extracting the contents of a package, and lines 35-45, which shows the control file or script associated with the package).

With respect to claim 21 (original), Foster in view of Davis further discloses the limitation wherein said processing said X-package script includes checking a relevant operating system of the vendor-specific software (see column 10, lines 53-61, which shows checking the operating system to determine whether the software package is compatible).

With respect to claim 22 (original), Foster in view of Davis further discloses the limitation wherein said processing said X-package script includes downloading all relevant files (see column 12, lines 44-46, which shows downloading all relevant files).

With respect to claim 23 (original), Foster in view of Davis further discloses the limitation wherein said processing said X-package script includes reporting status (see column 10, lines 57-61, which shows reporting the status of the package).

With respect to claim 24 (currently amended), Foster discloses an apparatus comprising a machine-readable storage medium having executable instructions (see mass storage 112 in FIG. 1; see also column 12, lines 56-67, which shows executable instructions) operable to cause one or more machines to perform operations comprising:

(b) transfer an X-package to target computers (see column 12, lines 25-35, which shows transferring a software package from a remote source to a target computer); and

(c) process an X-package script (see column 9, lines 19-46, which shows processing a control file or script).

Although Foster discloses creating and distributing a software package (see column 3, lines 47-52) having a control file or script (see column 7, lines 35-45), Foster does not expressly disclose operations comprising:

(a) import vendor-specific software using a vendor package template to create an X-package having a script.

However, Davis discloses a third-party component configuration file (i.e. a vendor package template) and importing the configuration file or template to create a corresponding list of installation tasks (see column 3, lines 44-51, and column 4, lines 1-9 and 20-24), in a system that enables users to install and configure third-party applications using a single, common interface (see column 1, lines 43-57).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the package importing features taught by Davis with the system of Foster, in order to provide a common interface for managing software packages from a plurality of third parties or vendors.

With respect to claim 25 (currently amended), Foster in view of Davis further discloses the limitation wherein the operations further comprise:

(a) authenticate the X-package by validating a signature on said X-package (see column 12, lines 1-5, which shows verifying the authenticity of the package by checking the signature).

With respect to claim 26 (currently amended), Foster in view of Davis further discloses the limitation wherein the operations further comprise:

(a) extract the script from said X-package for processing (see column 7, lines 14-17, which shows decompressing or extracting the contents of a package, and lines 35-45, which shows the control file or script associated with the package).

5. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foster in view of Davis as applied to claim 1 above, and further in view of U.S. Pat. No. 6,381,742 to Forbes et al. (art of record; hereinafter "Forbes").

With respect to claim 27 (new), Foster in view of Davis does not expressly disclose the limitation wherein said X-package document includes Extensible Markup Language (XML).

However, Forbes discloses software package manifests or documents implemented using Extensible Markup Language according to an open specification for describing software (see column 12, lines 29-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include Extensible Markup Language, as taught by Forbes, in the packages disclosed by Foster in view of Davis, for the purpose of providing support for an open standard.

6. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foster in view of Davis as applied to claim 2 above, and further in view of U.S. Pat. No. 5,950,010 to Hesse et al. (hereinafter "Hesse").

With respect to claim 28 (new), although Foster discloses protecting packages from unauthorized access (see column 11, lines 64-67), Foster in view of Davis does not expressly disclose the limitation wherein said package importer verifies the importing user identity by checking an access control list.

However, Hesse discloses verifying a user identity by checking a list of users, i.e. an access control list, and determining the security level of the user (see column 12, lines 19-29), in a system for building and installing custom application packages (see the title and abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to protect the packages from unauthorized access, in the software management system of Foster in view of Davis, by checking an access control list, as taught by Hesse, to verify the importing user identity.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. U.S. Pat. No. 6,324,691 to Gazdik discloses a method for generating custom software distributions. U.S. Pat. No. 6,266,811 to Nabahi discloses a method for custom computer software installation. U.S. Pat. No. 6,178,546 to McIntyre discloses a method for making software product deliverables. U.S. Pat. No. 6,117,187 to Staelin discloses a method for automatically generating software installation packages.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Yigdall whose telephone number is (703) 305-0352. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (703) 305-4552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/741,986

Page 17

Art Unit: 2122

MY

Michael J. Yigdall

Examiner

Art Unit 2122

mjy

Hoang Anthony Nguyen Ba

**ANTONY NGUYEN-BA
PRIMARY EXAMINER**